UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1990/SR.44
9 May 1990

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE FIRST PART* OF THE 44th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Mrs. REGAZZOLI (Argentina)

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* The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.44/Add.1.

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GE.90-11285/1841B

The meeting was called to order at 3.25 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 12) (continued) (E/CN.4/1990/5, 21, 22 and Add. 1, 24-28 and Add. 1, 51, 52, 55, 57, 60-63, 69, 70, 73, 74, 76, 78 and 80; E/CN.4/1990/NGO/1, 3, 9, 10, 15, 19, 23-27, 31, 32, 34, 35, 40, 47, 53-55, 58, 60, 62, 63 and 65; A/44/526, 573, 620, 622, 635, 669 and 671)

1. Mr. EL SAYED (Observer for the Sudan), speaking in exercise of the right of reply, said that during the discussion of agenda item 12, the Sudan had been accused by a number of speakers, in terms that had at times been virulent, of violating human rights in the framework of the internal conflict afflicting the country. Those completely groundless allegations were quite obviously part of a disinformation and denigration campaign against the Sudan and could be of harm to friendly relations with it. They were at variance with the provisions of the 1952 Convention on the International Right of Correction and the 1984 Declaration on the Right of Peoples to Peace, article 2 of which stipulated that the preservation of the right of peoples to peace and the promotion of its implementation constituted a fundamental obligation of each State.

2. His delegation would like to point out that the Sudan was not the only country in which a change of régime took place and that, in any event, the right of peoples freely to choose the political system that best met their aspirations was universally recognized. Furthermore, the Sudan respected human rights, and any recent measures that might have been taken were in conformity with the provisions of article 4 of the International Covenant on Civil and Political Rights, which authorized the suspension of certain rights in cases of "public emergency which threatens the life of the nation". Finally, internal wars were not peculiar to the Sudan or to the African continent but existed in other countries also. It was surprising, therefore, that the Sudan had been selected as an example of a country where human rights were violated in the framework of a situation of internal conflict. What was certain was that the financial and military aid given by certain countries to the insurgent movements would not encourage a return to peace in the Sudan. His delegation wished also to recall that the problems in the southern Sudan dated from the colonial era, since the rebellion had begun in 1955; martial law had already been in force in that region when the Sudan had acceded to independence in 1956.

3. His Government was making every effort to find a solution to the conflict and wished to maintain its ties of friendship and co-operation with the rest of the international community, but it would not accept any undermining of the dignity of the Sudanese people, who were proud of their civilization and would do everything in their power to protect the values on which it was based.

4. Mr. ANCOG (Philippines), speaking in exercise of the right of reply, said that his Government was fighting on two fronts, for by fighting the insurrections that hampered the country's economic growth it was fighting poverty as well. However, although it was determined to win the war over the insurgents, it would never adopt the policy of tolerating violations of its citizens' human rights.

5. He thanked the many NGOs which had expressed deep concern for the victims of human rights violations in the Philippines, but he rejected any attempt to tell the Filipinos how to resolve their problems. Regarding the allegations of the World Student Christian Federation, he assured the Commission that the incidents referred to would be investigated. However, he could not help but notice that the Federation was being somewhat selective since it had been silent on the massacre of a religious community in Digos by the insurgent army.

6. Moreover, his delegation was curious as to why the case of Nathaniel Santiago had not been brought to the attention of the Philippine Commission on Human Rights or the competent authorities for the purpose of investigating the case, and he wondered whether the human rights advocates who had supplied the information on that case were not trying to make it a cause célèbre so as to exploit it for their own ends.

7. As for what the Federation alleged was a campaign against members of the United Church of Christ of the Philippines, his delegation wished to point out that the persons whose cases had been cited had not limited themselves to religious proselytizing but had also been engaging in political activities and that there was nothing to indicate that they had been killed because of their religious beliefs.

8. His delegation was ready at any time to provide the representatives of the World Student Christian Federation with clarifications on the other issues they had raised.

9. Mr. DUNA (Observer for Turkey), speaking in exercise of the right of reply, said that the representative of Greece had attempted to distract the Commission's attention from the human rights violations inflicted upon Greek citizens of Turkish origin, described in document E/CN.4/1990/70, by referring to human rights topics concerning Turkey. Unlike Greece, Turkey did not claim to be perfect in the field of human rights; it admitted its mistakes and was prepared to redress them. As expected, the Greek representative had not referred to the Turkish origin of the Muslim minority in Western Thrace. Statistics showed that it had dwindled in number to such an extent that it numbered roughly 500,000 people less than in 1920. To find out what had become of those people, it was sufficient to look at Greek legislation, especially article 19 of the Greek Nationality Act, which provided that a person of non-Greek ethnic origin leaving Greece without the intention of returning could be declared as having lost Greek nationality. It was obvious that the target of that provision was the ethnic Turkish Muslim minority in Western Thrace and that Greece was seeking to reduce the size of the Turkish Muslim population by uprooting Greek citizens of Turkish origin from their ancestral homeland. Greek citizens of Turkish origin were also subjected to a series of unfair measures of repression and oppression. There had been world-wide reaction to the trial of two Greek citizens of Turkish origin, Mr. Ahmed Sadik and Mr. Ibrahim Serif.

10. Recent developments in Western Thrace showed that the problems of the Turkish Muslim minority in that corner of Europe required urgent attention. Turkey's legitimate concern for the plight of the ethnic Turkish Muslim minority was not aimed at adding fuel to the fire. The past amply demonstrated that Turkish-Greek co-operation had enabled both countries to promote their interests in all fields, whereas confrontation had always been to the detriment of both.

11. Minorities could well serve as bridges for friendship between Turkey and Greece, providing that both countries strictly complied with their moral and contractual obligations.

12. Mr. LEE (Observer for the Republic of Korea), speaking in exercise of the right of reply, said that the Observer for the Democratic People's Republic of Korea had described its society as a paradise, saying that there were no beggars, no unemployed and no human rights violations. Others, on the contrary, referred to it as a most repressive society in which human rights and fundamental freedoms did not exist. To settle the question once and for all, the Democratic People's Republic of Korea should open its doors to the world, including international human rights monitors, especially members of the Commission's Working Group on Enforced or Involuntary Disappearances with a view to investigating the fate of some 100,000 political prisoners held in camps in that country. Finally, his delegation stated once again that no concrete wall existed in the southern part of the demilitarized zone of the Korean peninsula. The unification of Korea could be attained only by means of confidence-building and reconciliation through an intra-Korean dialogue, not through exchanges of empty propaganda.

13. Mr. CHONG (Observer for the Democratic People's Republic of Korea), speaking in exercise of the right of reply for the second time, repeated that there was absolutely no doubt as to the human rights violations being committed in the Republic of Korea. The allegations by that territory's Observer against the Democratic People's Republic of Korea were a tissue of lies that deserved no comment. If that Observer did not believe in the existence of a concrete wall in the southern part of the demilitarized zone, he should ask to be one of the group of observers which the Government of the Democratic People's Republic of Korea had proposed should be set up to verify the matter.

14. Mr. LEE (Observer for the Republic of Korea), speaking in exercise of the right of reply for the second time, repeated that the delegation of the Democratic People's Republic of Korea was refusing to reply to the question why its Government was not meeting the requests of various international organizations, in particular Amnesty International, for information on the human rights situation in that territory.

15. The so-called wall between the two Koreas was a complete invention by the Democratic People's Republic of Korea to justify its attitude following the events in Berlin and elsewhere. Everyone knew that travel between the two Koreas had become virtually impossible, not because of the fictitious wall, but because of the restrictions on freedom of movement and travel both inside and outside the Democratic People's Republic of Korea. If the Government of that territory really wished to liberalize exchanges between South and North, it would respond positively to the practical measures proposed by the Government of the Republic of Korea during talks between the two territories.

16. Mr. KERKINOS (Observer for Greece) said that the arguments and figures put forward by the representative of Turkey were belied by the facts. The rights and freedoms of all Greeks were guaranteed by the Greek Constitution, but especially by the principles on which Greek society was based, namely, democracy, tolerance and humanism, under which Muslim minorities were free to practise their religion or customs or speak their language.

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17. His delegation would refrain from reminding the Observer for Turkey once more of the horrible events of September 1985. It was for each person to decide where the responsibility lay.

18. Mr. DUNA (Observer for Turkey), speaking in exercise of the right of reply for the second time, said that those responsible for the events of 6-7 December 1955 had been sentenced by the courts and compensation had been paid to the victims. Greece, too, should compensate all the Turks who had suffered harm and begin treating the members of the Turkish minority as equal Greek citizens by ending the policies of oppression and violence against them. Turkey would continue to demand that the rights of the Turkish minority in Western Thrace be respected.

19. Ms. PARKER (International Human Rights Internship Programme) said that she was speaking on behalf of the Minnesota Lawyers International Human Rights Committee, which for the past two years had been attempting with much difficulty to document the human rights situation in Albania, which the Commission had decided, by its resolution 1988/17, to consider under its public procedure. Despite many daunting obstacles, the Committee had succeeded in making contact with many Albanian emigrés living in Greece, Italy, the United States and Yugoslavia, as well as experts, diplomats, journalists and recent visitors, and had thus been able to produce a detailed report on the human rights situation in that country. It had submitted its findings to the Albanian Government, which had not replied.

20. The information collected indicated that there were severe restrictions on freedom of movement within Albania and that the borders were strictly controlled to prevent any unauthorized departures. Reprisals were taken against the relatives of anyone who did manage to emigrate. Physical and psychological torture were commonly practised in the prisons and labour camps, where individuals were held on account of their political beliefs. The detainees were used as an inexpensive labour force for Albania's vital mining industry.

21. The Socialist People's Republic of Albania, the self-proclaimed "first atheist State in the world", was the only country that constitutionally forbade all manifestations of religion. Despite the denials of the Albanian Government, it was clear that freedom of religion did not exist in Albania. Freedom of association and expression were also strictly limited through Government control of all forms of media, communications, art and scholarship. The rights of ethnic minorities, including the large Greek minority, were not respected, and interference with the rights of privacy and protection of the family were routine. Moreover, despite advances in the economic and social fields, the country was in the grip of a serious economic crisis which was having negative effects on the exercise of economic and social rights and women's rights.

22. In conclusion, the Minnesota Lawyers Committee urged the Commission to continue its monitoring of the human rights situation in Albania and to consider appointing a special rapporteur or establishing a similar mechanism to gather further information. It was to be hoped that the Albanian Government would be encouraged to abide by its international obligation as a member of the United Nations to promote and protect the human rights of its citizens.

23. Mr. SEZAKI (Japan) said his delegation welcomed the report submitted by Mr. Galindo Pohl, the Special Representative on the human rights situation in the Islamic Republic of Iran (E/CN.4/1990/24) and fully understood the difficulties faced by the Special Representative, which were explained in paragraph 87 of the report. As a general rule, however, the Commission should receive all reports well in advance of the discussions in order to ensure a well-balanced and objective analysis.

24. He concluded from paragraph 253 that the report did not represent "final observations" on the human rights situation in Iran. In spite of the numerous cases of testimony and interviews contained in the report, further in-depth analysis was required.

25. Secondly, his delegation was encouraged by the co-operative attitude of the Iranian authorities, as noted in several paragraphs of the report. It hoped that the Iranian Government would maintain that attitude, which would increase its credibility before the international community. Finally, he appealed for the early distribution in future sessions of all documents on all agenda items.

26. The CHAIRMAN suggested, in connection with item 12 (a), "Question of human rights in Cyprus", that the Commission should adopt the following decision, which was identical with that adopted in previous years:

> "The Commission decided that the debate under agenda item 12 (a) (Question of Human Rights in Cyprus) should be postponed to the forty-seventh session of the Commission and be given due priority at that session, it being understood that action required by previous resolutions of the Commission on that subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation".

27. It was so decided.

28. The CHAIRMAN noted that the Observer for Turkey had requested that his reservation with regard to the previous resolutions of the Commission be placed on record.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 22)
(E/CN.4/1990/42, 43, 44 and Add.1, 45 and Add.1; E/CN.4/1990/NGO/19 and 20)

29. Mr. MARTENSON (Under-Secretary-General for Human Rights) said that he had already mentioned in his opening statement that the work of the Centre for Human Rights on the promotion and protection of human rights was based on three pillars: legislation, implementation and information/education. In that context, he had emphasized the growing role of technical assistance. In recent years, the principal United Nations organs had been attaching great importance to activities aimed at helping Member States to promote universal respect for human rights, in conformity with Article 55 of the Charter. In that connection, the establishment of the Voluntary Fund for Advisory Services had been a turning point. Thanks to the Fund, not only had training courses and seminars increased, but a strategy had been developed to help Governments establish or strengthen the necessary infrastructures with regard to international human rights standards. That trend had intensified in 1989.

30. Advisory services and technical assistance were available to all States Members of the organization desiring help in order to implement international standards more effectively. However, such services did not exempt them from other procedures established by the Commission or by treaties, such as periodic reports, monitoring and field investigations.

31. The Secretary-General's report on advisory services (E/CN.4/1990/43) provided information on the Centre's activities in the human rights field in 1989 and on the functioning of the Voluntary Fund. Part I dealt with the mandate of the programme and part II with policy guidelines and practice. The policy guidelines might, of course, be regularly reviewed on the basis of new texts concerning the programme and/or specific indications emerging in particular from the Commission's discussions. In addition, the practice of informal consultations with donor and other interested Governments would be maintained, in particular with regard to the use of the Voluntary Fund.

32. Part III dealt with activities undertaken in 1989, financed through the regular budget (section A) and the Voluntary Fund (section B). Among the activities financed through the regular budget, there was an international seminar on migrant workers and missions of experts to Equatorial Guinea, Guatemala and Haiti. A human rights training course held in Moscow in November 1989 had been financed from the host country's contribution in roubles. The fellowship programme under the regular budget had been restructured in order to make it more effective. Some 30 applicants had been accepted; they had attended a two-week training session at the Centre for Human Rights followed by two weeks in the human rights training course at the International Institute of Human Rights at Strasbourg.

33. The activities mentioned in section B included assistance to the OAU African Commission on Human and Peoples' Rights, assistance to Colombia, Guatemala and the Gambia, and eight regional training courses and workshops in Latin America, Asia, Europe and Africa.

34. Centre officials had also participated in numerous activities instituted by United Nations bodies and agencies, non-governmental organizations and academic institutes. The Centre had strengthened its co-operation with them and worked towards better co-ordination of advisory services and technical assistance in the United Nations system. To that end, it had held an inter-agency meeting at Geneva in April 1989; a similar meeting was planned for 12 March 1990.

35. Contributions to the Voluntary Fund had been received from 17 Governments and several non-governmental organizations for a total of approximately $1,600,000, of which $883,000 had already been earmarked as at 31 December 1989. That financial support had made it possible to engage in practical activities which, together with those financed through the regular budget, made up a comprehensive and co-ordinated programme of advisory services and technical assistance.

36. In 1989, the Centre had co-operated closely with regional bodies such as the recently-established African Commission on Human and Peoples' Rights, the Council of Europe and the Inter-American Commission on Human Rights. At the regional level, it had also had contacts with the International Institute of Human Rights in Strasbourg, France, the Inter-American Institute of Human Rights at San José, Costa Rica, the San Remo Institute, Italy, and the Arab

Institute of Human Rights at Tunis. It had also assisted in the establishment at Banjul, the Gambia, of an African Centre for Democracy and Human Rights Studies, whose needs had been determined in advance through a feasibility study. Assistance had also been given for the revision of legislation and the granting of a fellowship to the Director of that Centre. Two national programmes were continuing.

37. Part IV dealt with future activities, including technical co-operation projects in several African, Arab, European, Latin American and Asian countries. Projects were also under discussion with several countries of Eastern Europe, the implementation of which would depend on the resources available, particularly from the Voluntary Fund.

38. With regard to the future, he said that, in defining the activities of the Decade and the objectives for the year 2000 under the advisory services and technical assistance programme, high priority should be given to universal accession to the principal international human rights instruments, in particular the two Covenants, and to their implementation. He recalled that the advisory services programme was a pragmatic one whose goal was to help Governments to adapt their domestic legislation to international standards to prepare for the ratification of a particular instrument.

39. Finally, he drew attention to the services provided in 1989 to the Governments of Equatorial Guinea and Haiti, by two experts appointed by the Secretary-General at the Commission's request, Mr. Volio Jimenez and Mr. Texier, who would introduce their reports, which appeared as documents E/CN.4/1990/42 and E/CN.4/1990/44 and Add.1 respectively. The report on Guatemala (E/CN.4/1990/45 and Add.1) had already been introduced by Mr. Gros Espiell on 13 February 1990. He also drew attention to draft resolution V, "Assistance to Paraguay in the field of human rights", contained in chapter I, section A of the Sub-Commission's report (E/CN.4/Sub.2/1989/58).

40. Mr. VOLIO JIMENEZ (Expert on the human rights situation in Equatorial Guinea), introducing his report (E/CN.4/1990/42), recalled that Equatorial Guinea had been provided with advisory services in 1989 on the Commission's recommendation. As Expert appointed by the Secretary-General, he had ensured that the implementation of those advisory services followed a Plan of Action developed by himself in 1980, agreed to by the Government concerned and adopted by the Commission in 1981. The raison d'être of the Plan of Action was to redress the serious human rights breaches committed under the dictatorship of Francisco Macías.

41. He had visited Equatorial Guinea for the first time in 1979 - the year of the dictator's fall - as a special rapporteur. The Commission had decided to end the Special Rapporteur's mandate in 1980, and since that time, he had been studying the situation in his capacity as Expert. His Plan of Action was gradually being implemented, as witnessed by the adoption in 1982 of a new political Constitution and the ratification by Equatorial Guinea of international human rights instruments, in particular the two Covenants. Unfortunately, the economic and social situation had not changed, and the economic and human resources required for development were still severely lacking. Under such conditions, therefore, the Plan of Action should remain in force and even be intensified.

42. When the Commission had decided in 1989 to assess the progress achieved in Equatorial Guinea, a consultant, Mr. Ortiz Lopez, had travelled to the country at Mr. Volio Jimenez' suggestion from 20 to 26 November. The visit had made it possible to evaluate the Plan of Action and to lay the foundations for a new period of co-operation between the Government and the Centre for Human Rights.

43. The report (E/CN.4/1990/42), which contained a summary of Mr. Ortiz Lopez' mission, described the measures around which advisory services should be focused rapidly: amendments to the Constitution, a renewed effort at codification of criminal law and civil law, training of personnel working in the courts, training of staff to prepare the reports on the implementation of the two Covenants, the promulgation of an Associations Act and the donation of printing equipment to publish decisions by courts and government institutions. It was also recommended that the Special Review Commission to monitor the implementation of the Plan of Action, proposed in the Plan itself, should be established.

44. He appealed to the international community not to forget Equatorial Guinea. He also emphasized the need for the return of exiles and of incorporating them into the life of the country, in an atmosphere of full freedom and democratic pluralism, especially since the Government had authorized only one political party. In particular, the return of executive-level exiles was essential for the country's political, economic and social development.

45. Mr. TEXIER (Expert on the human rights situation in Haiti), introducing his report (E/CN.4/1990/44 and Add.1), thanked the Haitian authorities for permitting the establishment of contacts for the second time and for facilitating his mission. During his stay, he had been able to meet quite freely with several members of the Government, the judiciary and the administration, representatives of the democratic sector and the human rights defence organizations and representatives of the Church and trade-union and peasant federations, the list of whom was given in paragraphs 92 to 96 of the report.

46. General developments in Haiti were summarized in paragraphs 4 to 51 of the report, but the serious events that had occurred after 20 January 1990 had led the Expert to submit some additional information (E/CN.4/1990/44/Add.1). Although a Permanent Electoral Council had been set up and the Government had been able to hold an election forum in February 1989, there had been a gradual increase in insecurity, which had become one of the population's main concerns, and not a week had gone by without some human rights violation. Moreover, there appeared to be a deliberate attempt to create an atmosphere of insecurity that would prevent the holding of genuinely democratic elections, which the military Government asserted it wished to conduct in 1990.

47. In April 1989, a failed coup d'état attempt had left many dead, the number of which had never been clearly established, and had given rise to a strengthening of the powers of the Presidential Guard and the imposition of a state of emergency and a curfew. Murders of leaders of political and peasant groups had increased and the system of justice had not succeeded in arresting the culprits or putting them on trial. Trade-union leaders had been arrested and tortured, and searches had been made of the homes of human rights and peasant militants who had been forced to go underground.

48. In the institutional sphere, there had been some progress in 1989 since some of the articles of the 1987 Constitution had been restored by decree, but all executive and legislative powers had remained in the hands of the President of the military Government, which remained a de facto Government, without legitimacy or a solid legal basis. All democratic institutions were lacking. The independence of the judiciary was not always ensured and its powers remained restricted, since it had been incapable of clearing up a single one of the many crimes committed in recent years.

49. In the international sphere, the announcement of the ratification of the International Human Rights Covenants and other conventions had not been put into effect. It was impossible not to wonder whether the military Government really intended to respect international human rights standards.

50. The human rights situation, studied in detail in paragraphs 61 to 91 of the report, was deteriorating constantly and was characterized by an increase in insecurity as reflected in crimes of bloodshed, acts of banditry, arbitrary arrests, torture, burglary and illegal searches, all of which went unpunished. The most harmful effect of the passivity of the system of justice was the Haitian people's loss of confidence in the institutions responsible for protecting them and the serious tendency to replace what should be the judicial institution by private justice. No serious steps had been undertaken to date in the investigation of the massacres of 29 November 1987 and September 1988, and the alleged perpetrators had even been able to flee to a neighbouring country, despite the opening of a judicial investigation.

51. The various proposals made by the Expert to the Head of the military Government concerning the holding of seminars on the judiciary and the police, conditions of detention and training of judges, had not been followed up. In particular, General Avril had never responded positively to the offer of logistical and technical support from the United Nations for organizing scrupulously democratic elections, with the participation of international observers. Although the Haitian Government had not requested advisory services, the Centre for Human Rights had just been informed that an Expert from the United Nations Crime Prevention and Criminal Justice Branch had visited Haiti at the beginning of the year and submitted a report on a technical assistance programme to the Ministry of Justice; the Haitian authorities had not yet taken any action concerning that report. The Centre had also been informed of the publication in Créole of the Universal Declaration of Human Rights.

52. After reading out the conclusions and recommendations contained in the report, he said that, in view of the current situation, it did not seem justified for an expert to continue studying the situation and that it would be preferable for the Commission to decide to appoint a special rapporteur.

53. Mr. CAMPBELL (United Kingdom) said that the Secretary-General's report on advisory services (E/CN.4/1990/43) illustrated once again the strong demand from countries for the full range of assistance offered by the Centre for Human Rights. It was reasonably to be expected that the welcome developments in many countries in 1989 would add to the number of applications, which bore witness to the value of the Centre's work but also put a responsibility on the Commission to ensure that the programme continued to meet needs effectively.

54. Given the size of the task, there was no doubt of the usefulness of the advisory services programme, albeit on a modest scale. The range of international undertakings which a country had accepted would count for nothing if they were unknown, ignored or misinterpreted by that country's law enforcement agencies or administrators of justice. It was at the level of the policeman, the soldier and the magistrate that training and the provision of study materials could have a particular impact, and it was at that level that the work needed to start.

55. Although it was true, as the Commission had stressed in various resolutions, that due attention should be paid to the particular needs of developing countries, the assistance programme could also play a valuable role in those more developed countries which were newly returned to democracy, where there would be an eagerness for new ideas and to share the experience of others. The Centre for Human Rights should respond quickly and imaginatively to their requests.

56. Since demand for assistance was growing more rapidly than the resources of the Voluntary Fund, clear guidelines must be developed to guarantee the wisest and most effective possible use of those resources. If Governments had confidence that the programme was well managed, existing contributors would be encouraged to continue their support and others to follow their example. His delegation welcomed the Centre's efforts at rationalization, in particular to improve the presentation of reports and co-ordination, both internally and with Governments.

57. The guidelines for the use of the Voluntary Fund should be stricter. The Commission had established the Fund to finance projects promoting the realization of internationally recognized human rights standards, and not as an extra source of money to be tapped whenever the regular programme fund ran dry. Projects under the advisory services programme should be closely tailored to the particular circumstances of a country or group of individuals, whence the need for developing appropriate evaluation systems. Questionnaires seemed an appropriate method for assessing the reaction of participants in training courses, and he noted that the positive response rate to the questionnaires remained high. But in the case of fellowships and internships a more thorough assessment was needed.

58. His delegation welcomed the inauguration in June 1989 of the Banjul headquarters of the African Commission on Human and Peoples' Rights, an important initiative that fully merited the Centre's support. It also welcomed the fact that well over half the total expenditure of the Voluntary Fund had been allocated to training seminars and workshops. However, the encouragement the programme could give to national institutions to carry on the work themselves on a regular basis should not be forgotten; "training the trainers" was the most cost-effective use of the available funds.

59. Advisory services assistance must always be regarded as complementary to the measures taken by Governments to fulfil their obligations; it should not offer them an easy means of appearing responsive to outside criticism without actually remedying the causes of human rights violations. The reports on the human rights situation in Haiti (E/CN.4/1990/44 and Add.1) raised the serious question whether the Commission should go on offering advisory services to a Government which did not want them. It was relatively easy for a country to sign and ratify an international human rights instrument or to court

international favour by its apparent willingness to accept assistance, but it was quite a different matter to implement that commitment and offer genuine co-operation to the representatives of the Centre for Human Rights. The advisory services programme was either a partnership with Governments or it was nothing.

60. The report by the Expert on the human rights situation in Guatemala (E/CN.4/1990/45) made it clear that the assistance given to that country since June 1988 had taken place in a climate of social violence and that, although the Government of Guatemala wished to see human rights respected, it lacked the ability and authority to prevent serious violations. However, his delegation welcomed the appointment of a new Procurator for Human Rights with wider powers and hoped that he would prove effective.

61. His delegation noted that the Consultant who had visited Equatorial Guinea had been able to report some progress in the implementation of the Plan of Action for the restoration of human rights and fundamental freedoms. It shared the Consultant's concern, however, that much still needed to be done in order to obtain results. The establishment of a Special Review Commission was important in that regard.

62. His Government was pleased that the funds it had pledged in 1989 would be used in support of the regional conference at Manila on international human rights standards, to be held in May. Although it was for Governments themselves to request advisory services, special rapporteurs of the Commission should continue to make recommendations for the provision of advisory services where they considered it appropriate. He stressed the need to make full use of the United Nations system as a whole in order to implement the programme effectively and particularly welcomed the enhanced co-operation between the Centre for Human Rights and UNDP, whose resident representatives were particularly well placed to identify countries' needs.

63. Mrs. Regazzoli (Argentina) took the Chair.

64. Ms. GAER (International League for Human Rights) said that, while advisory services could be a valuable supplement to United Nations activities aimed at implementing existing standards, they created serious problems when used to exonerate countries with records of egregious human rights violations, either because there had been a change of Government or because the country, in order to avoid being dealt with under agenda item 12, requested its situation to be examined under the advisory services item, as had happened in the recent past. International co-operation and advisory services must not become a substitute for the investigative and reporting functions of the Commission.

65. The reports submitted to the Commission on assistance to Guatemala, Equatorial Guinea and Haiti were exceedingly troubling, in particular in respect of Guatemala and Haiti, where the situation was deteriorating. Both cases illustrated the drawbacks of the method by which countries that had been reviewed under agenda item 12 procedures were "promoted" to receiving advisory services. Both cases clearly merited special rapporteurs. Furthermore, better criteria were still needed to determine which countries received assistance, for what and with what effect or follow-up.

66. The analysis presented by the Expert on advisory services to Guatemala (E/CN.4/1990/45 and Add.1) was very pessimistic and, in particular, indicated that the Government had proved incapable of remedying the situation. However, the recommendations made after thorough analysis of existing institutions could lead to progress and to a transformation of the system of administering justice.

67. Although the report on Guatemala indicated that the Centre should continue assistance to that country, the Expert on Haiti, who presented an equally dismal picture, raised the crucial question whether the offer of advisory services should be continued to a Government which did not want them. Her organization endorsed the Expert's proposal that the Commission should consider appointing a special rapporteur to monitor the situation, unless the Haitian Government was prepared to co-operate.

68. As for the question of criteria for advisory services and the mechanisms for evaluation, the Secretary-General's new report (E/CN.4/1990/43) provided few assurances that the projects selected for support would be the most effective. Seminars, called "training courses", would be helpful only if they opened doors to specific follow-up projects. However, the list of requests detailed in the Secretary-General's report showed a preponderance of seminars. Thus a procedure should be developed for ensuring that seminar topics were part of a coherent plan and were specifically related to the needs of the target audience.

69. Objective criteria should also be outlined for determining when a Government should receive assistance. Thus, the Commission should establish three categories of States eligible for assistance: first, States co-operating with special rapporteurs and experts under the procedures established under agenda item 12; second, States emerging from difficult circumstances, such as Chile or, perhaps, Romania; and third, States or territories entering a new phase of their history after a change of status or political system.

70. United Nations efforts to protect human rights would be undermined by providing advisory services to Governments that refused to co-operate. A more regularized procedure, better defined guidelines and scrutiny by independent experts were needed to utilize the advisory services programme effectively.

71. Ms. ROUSSO-LENOIR (International Federation of Human Rights) said she wondered whether it was useful to make advisory services available to Haiti and, like Mr. Texier in his report (E/CN.4/1990/44/Add.1), whether advisory services should be continued to a Government which did not want and was not using them. She noted that Mr. Texier had mentioned the arrest in January 1990, under extremely brutal conditions, of some 40 political figures. They had included Mr. Louis Roy, a human rights militant, former President of the Haitian Red Cross and a member of the Haitian League for Human Rights, an affiliate of the International Federation of Human Rights, to whom she yielded the floor.

72. Mr. ROY (International Federation of Human Rights) said that no warrants had been issued for either the November 1989 arrests or those of January 1990, of which he had been one of the victims. All the persons arrested had been brutally beaten, even tortured, on police premises and even in the National Palace. Some had not received appropriate medical care, despite some timid pressure by the national and international Red Cross.

73. Exile was prohibited by the Constitution. To circumvent that prohibition, the Government had announced a state of emergency after the illegal arrests, thus claiming the right to expel citizens without grounds. All demonstrations had been prohibited during 1989. Haitians no longer dared to meet together, for fear of being machine-gunned.

74. The only right that the people seemed jealously to protect was freedom of speech. The press and television, when not under government instructions, were forced to be very careful in their presentation and commenting of events. Radio was the only medium in the country that was still free, which explained why radio reporters were subjected to brutal repression by the forces of order.

75. Such gross and systematic human rights violations in Haiti justified the appointment of a special rapporteur under item 12 of the Commission's agenda.

76. Mr. PADILLA (International Federation of Human Rights) said that the Secretary-General's decision to appoint an expert to submit a report to the Commission and to provide the Guatemalan Government with advisory services in the field of human rights, had condemned the Guatemalan people to fight their human rights battle alone. That decision had also resulted in distorting the meaning of the advisory services. Far from questioning the value of the programme itself, he attributed such defects to the political conditions under which it had been implemented: a situation characterized by the persistence of repressive mechanisms, impunity of the culprits and the military apparatus's increased determination to be repressive.

77. It was true that Guatemala needed advisory services in the field of human rights, but the credibility of the programme might be jeopardized through the inclusion of a country that violated human rights so systematically. Furthermore, other countries whose situation did justify such services might hesitate to request them because they felt that their situation was not comparable to Guatemala's.

78. In addition, the teaching of human rights came up against the ideology of an army which was determined to change current national and international human rights standards because they hampered its action against the insurgents.

79. Contrary to what it said officially, the Guatemalan Government was implicated in human rights violations, which continued to be practised openly and systematically. The Commission on Human Rights should therefore appoint a special rapporteur on Guatemala, under agenda item 12.

80. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) said he noted with concern that, over three years after its accession to the International Covenants on Human Rights, the Government of Equatorial Guinea had neither amended its domestic legislation nor restored democracy. It continued to prohibit trade unions and refused to enact a general law on associations and political opening.

81. Recalling that the Government of Equatorial Guinea had not entered any reservations when it had acceded to the International Covenants, he asked the Commission on Human Righs to bring pressure to bear on that Government to fulfil its international obligations.

82. He wondered what was the best way to handle a country that systematically violated human rights while at the same time enjoying advisory services in that field. It would appear that many States were happy to have their situation considered under agenda item 22 and thus present themselves to international political opinion as States that respected human rights and fundamental freedoms.

83. In the report on the question of the human rights of all persons subjected to any form of detention or imprisonment, torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1990/17), the Special Rapporteur described ongoing systematic violations of human rights and fundamental freedoms in Equatorial Guinea, especially torture by the military, which governed the country with the assistance of foreign occupation forces. He consequently asked the Commission to continue to monitor the human rights situation in Equatorial Guinea and to extend the Expert's mandate.

84. The hopes raised by the fall of ex-President Duvalier's Government in Haiti had unfortunately been disappointed. Human rights and fundamental freedoms continued to be flouted in that country, and the Commission should extend the mandate of the Expert on the situation in Haiti, who should submit a further report to the Commission on Human Rights at its forty-seventh session.

85. Mr. BRODY (International Commission of Jurists) said that, while welcoming the Secretary-General's most recent report on the advisory services programme, which gave further information on the programme's priorities and the closer collaboration between the programme secretariat and human rights non-governmental organizations, his organization considered that criteria should be developed for assessing which projects to support and in which countries, and that closer collaboration should be developed with domestic NGOs.

86. As things stood, the advisory services programme was undermining the Commission's monitoring role in the cases of Guatemala and Haiti. In the past year there had been an alarming escalation in political violence in Guatemala, accompanied by a continuation of a long-standing pattern of severe human rights violations. In such circumstances, it might be wondered when and under what conditions the United Nations should provide a Government with advisory services. The political will of Governments was a major element to be taken into consideration, but it needed to be accompanied by a real capacity to enforce the law and strengthen the institutions that were called on to implement respect for rights and freedoms. It should also go hand in hand with a determination to investigate and punish human rights abuses and to protect independent monitoring activities. The Government of Guatemala had failed that test.

87. It was true that the Guatemalan Government had established various human rights organizations, but it had also granted amnesty for crimes committed in the past and present. Furthermore, the New York-based Lawyers Committee for Human Rights had issued a report concluding that the advisory services programme had had no effect on the human rights situation in Guatemala. His organization, too, believed that the necessary conditions for an effective advisory services programme did not exist in Guatemala. It therefore recommended, as a matter of highest priority, that the Commission should appoint a special rapporteur to examine the human rights situation in Guatemala.

88. With regard to Haiti, his organization believed that the Government of Haiti had taken advantage of the trust placed in it by the Commission and had used the programme to avoid proper scrutiny. The pessimistic, but realistic, conclusions in Mr. Texier's report on Haiti (E/CN.4/1990/44 and Add.1) should cause the Commission to put an end to the offer of advisory services to the Government of Haiti, if only for the credibility of the programme.

89. During a mission to Haiti which it had conducted jointly with other NGOs in September 1989, the International Commission of Jurists had noted that the suspension of the Constitution until March 1989 deprived of significance both General Avril's 1988 vows to respect human rights and his so-called ratification of and accession to human rights instruments in December 1988. It thus supported the Expert's proposal that the Commission should vote to condemn government human rights abuses in Haiti and to appoint a special rapporteur to examine those abuses and to report back to the Commission at its next session.

90. Mr. MOLINA (World University Service) said it was regrettable that the human rights situations in Haiti and Guatemala were being considered under agenda item 22 and no longer under agenda item 12 and stressed the need to appoint for both countries special rapporteurs to investigate human rights violations systematically and objectively, a job that an expert responsible for technical assistance in the field of human rights could not accomplish properly, owing on the one hand to his role as adviser and conciliator and on the other to the bad faith of the Governments in question.

91. Thus, in the opinion of the Expert, Mr. Philippe Texier himself, the obstacles to a genuine improvement of the human rights situation in Haiti, i.e. the lack of effectiveness of the system of justice, the militarization of the rural areas, the non-separation of army and police functions and the lack of legal proceedings against those responsible for the principal massacres, had still not been removed.

92. As Vice-President of the Guatemalan Committee of the World University Service and member of the sole representation of the Guatemalan opposition, and on behalf of all those struggling for the establishment of a genuine democracy in Guatemala, he once more urged the Commission to appoint a special rapporteur to investigate gross human rights violations in that country.

93. Although most of the murders, including those of Hector Oqueli and Hilda Flores, and cases of torture and enforced disappearances had been perpetrated by the armed forces and security forces, the moral and historical responsibility was borne by the civilian Government and the President of the Republic, who was Commander-in-Chief of the armed forces.

94. Because it had not adopted the measures needed, the Commission also bore its share of the responsibility. The previous year, World University Service had supplied the Commission with the names of students who had been threatened with death. Since then, all those persons had been murdered or had disappeared, as had a number of leaders of popular movements and human rights militants.

95. If it wished to preserve its authority, the Commission must cease its political support of a Government that permitted such abuses, appoint a special rapporteur for Guatemala and lend no credence to the authorities' assertions that the appointment of a special rapporteur would provide the army and extreme-right groups with an opportunity to seize power: a junta could not maintain itself in power, for it would be completely isolated at the national and international levels.

96. Ms. BERTRAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that the human rights situation in Guatemala had deteriorated still further, despite the adoption of a new constitution and the implementation, at the request of the Government of Guatemala, of a technical assistance programme in the field of human rights.

97. She referred in particular to the army's abduction of the Social Democrat leader Eladio Ambrosio on 16 June 1989, the murder of 11 student leaders in September 1989, the torture by the police of Diana Ortiz, an American nun, the massacres, including the Aguacate massacre, perpetrated by the army in 1988 and 1989, and the army's abduction of 57 persons, including 30 children and adolescents, on 22 November 1989 at Amajchel. The impunity of the perpetrators of those crimes, the powerlessness of the system of justice to enforce the law, especially habeas corpus, the Government's passivity and bad faith and the arrogance of the army, whose members had been encouraged by one general to behave like warlords and messengers of death, caused her organization to doubt that the above-mentioned technical assistance programme was the best way of defending human rights in Guatemala, and it urged the Commission to appoint a special rapporteur for that country.

98. Her organization was also deeply disturbed by the human rights situation in El Salvador, in particular the arbitrary arrests, the disappearance of more than 8,000 detainees and the impunity of the violators of human rights. In the name of democracy and defence of the Constitution, the Salvadorian Government used the armed forces and paramilitary groups to put down violently any signs of discontent, from whatever quarter. On 27 November 1989, the police had sacked the premises of the Council of Marginal Communities and arrested 19 members of that association, one of whom was still in prison. The premises of the Christian Committee for the Defence of El Salvador were currently occupied by the army. On 31 October 1989, the explosion of a bomb on the premises of the Monsignor Romero Mothers' Committee had left four wounded. Two weeks later, the police had sacked the association's premises and arrested and beaten nine persons they had found there. Four of them were still being illegally detained. On 11 November 1989, to smother any political opposition, the Government had declared a state of emergency and used it to suspend the right of any person arrested to be informed promptly of the reasons for his arrest, which the security forces had used to cause certain persons to disappear.

99. In view of all those violations and the civilian authorities' submission to the military power, her organization asked the Commission to allow the Special Rapporteur on El Salvador to continue his work.

100. Mr. MENDEZ (American Association of Jurists) drew the Commission's attention to the serious and systematic violations of human rights in Guatemala, in particular the threats, attacks, enforced or involuntary disappearances, extra-judicial executions, arbitrary detentions, and cases of

torture and cruel and inhuman treatment, of which the principal victims were trade-union and student leaders, peasants, human rights militants, members of religious orders and Indians. Being a human rights militant, he himself had received death threats, as had his relatives and colleagues.

101. In November 1988, the security forces had murdered 22 peasants in the village of Aguacate, and a witness to the massacre had had to leave Guatemala, under the protection of the Canadian Embassy, because of death threats against him. Although the army had no use for technical assistance in the field of human rights, since its members were taught to behave like warlords and messengers of death, the Guatemalan non-governmental organizations working to defend human rights did have a great need for assistance.

102. The American Association of Jurists believed that technical assistance in the field of human rights could be effective only if the State authorities showed the genuine political will to combat human rights violations, which was not the case in Guatemala. In any event, that could not be a substitute for investigations into such violations. For that reason, the American Association of Jurists once again requested the Commission to appoint a special rapporteur for Guatemala.

103. In conclusion, he referred to Haiti, where advisory services in the field of human rights were being used improperly. In the opinion of the Expert, Mr. Texier, himself, it would be more appropriate to appoint a special rapporteur for Haiti, if that country's authorities were not prepared to accept advisory services, in particular in order to organize elections. Advisory services supplied by the Centre, at the Commission's request, should not be used to mask human rights violations in certain countries.

The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.44/Add.1.